IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 32666 of 2007(L)

OS.126/2003 of SUB COURT, MUVATTUPUZHA

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PETITIONER:

GEORGE, S/O. VARKEY,
AGED 45, RESIDING AT VETTUKATTIL HOUSE,
PANGODE KARA, IKKARANADU NORTH VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.SABU FRANCIS
SRI.C.T.APPACHEN

RESPONDENTS:

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1. THAMBI, S/O. JOSEPH,
THENUMMAKKALPUTHENPURAYIL HOUSE, PANGODE KARA,
IKKARANADU NORTH VILLAGE.

2. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, LAW DEPARTMENT,
TRIVANDRUM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 2/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.32666 of 2007

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Dated this the 2nd day of November, 2007.

JUDGMENT

This Writ Petition is filed by the defendant in O.S.No.12 of 2007 of the Subordinate Judge, Perumbavoor. The suit is one for injunction and it was filed by the plaintiff showing the valuation at Rs.1,05,000/- and he filed the said suit before the Sub Court at Perumbavoor. Ultimately, the suit has been decreed. Now the prayer of the defendant, who wants to file an appeal against the judgment and decree is that being a suit for injunction simplicitor the plaintiff should have valued the property as contemplated under Section 27(c) of the Kerala Court Fees and Suits Valuation Act and it was only an inflated rate so as to enable him to file the suit before the Sub Court and therefore he prays for an order that the judgment and decree of the Sub Court, Perumbavoor are to be treated as judgment and decree of the Munsiff Court for the purpose of court fee and jurisdiction. I am at a loss to understand this contention.

2. Under Section 27(c) of the Kerala Court Fees and Suits

Valuation Act states thus:

> "27. Suits for injunction:- In a suit for injunction-
>
> (a) xx xx xx
>
> (b) xx xx xx
>
> (c) in any other case, whether the subject-matter of the suit has a market value or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees five hundred whichever is higher:"

So, Section 27(c) of the above Act gives a right to the plaintiff to value the relief which he is seeking. The plaintiff has valued the relief at Rs.1,05,000/- and has paid court fees and it is totally sustainable. Under Section 27(c) of the Act, the Court in order to enable the defendant to file an appeal cannot review the same or deem it to be a decree of the Munsiff Court for the purpose of court fee and jurisdiction.

Writ Petition is totally misconceived and therefore, it is dismissed.

M.N.Krishnan,
Judge.

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